

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

COURTROOM PROCEEDINGS

The court met in its courtroom at 10:00 A.M. Present: Honorable Rebecca A. Wiseman, Acting Presiding Justice; Honorable Herbert I. Levy, Associate Justice; Honorable Betty L. Dawson, Associate Justice; and Charlene Ynson, Clerk/Administrator, by Diana Monopoli, Senior Deputy Clerk.

F054478 Hailstone v. Martinez et al.,

Cause called and argued by David A. Rosenfeld, Esq., counsel for appellant, and by Usha Viswanathan, Esq., counsel for respondent.

Cause ordered submitted.

Court recessed until Monday, December 15, 2008 at 1:30 P.M.

The court reconvened in its courtroom at 1:30 P.M. Present: Honorable Rebecca A. Wiseman, Acting Presiding Justice; Honorable Herbert I. Levy, Associate Justice; Honorable Betty L. Dawson, Associate Justice; and Charlene Ynson, Clerk/Administrator, by Diana Monopoli, Senior Deputy Clerk.

F053017 People v. McFadden

Cause called and argued by Shanti R. Brien, Esq., counsel for appellant and by Paul A. Bernardino, Deputy Attorney General, counsel for respondent.

Cause ordered submitted.

At this point Dawson, J. leaves the bench and is replaced by Hill, J.

F053360 People v. Fyfe

Cause called and argued by Carl M. Faller, Esq., counsel for appellant and by Peter H. Smith, Deputy Attorney General, counsel for respondent.

Cause ordered submitted.

Court recessed until Wednesday, December 17, 2008 at 10:00 A.M.

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

F055559 In re C.E. et al., Minors

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

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F055559 In re C.E. et al., Minors

The matter is final to this court forthwith and remanded to the trial court with directions to assure that the department gives notice of the underlying proceedings in compliance with the ICWA to the Bureau of Indian Affairs and any identified tribes. Respondent shall document its efforts to provide notice by filing such documentation and any and all responses received by the trial court. [cite omitted] If the bureau of Indian Affairs or any tribe responds by confirming that the child is or may be eligible for membership within 60 days of sending proper notice under the ICWA, the court shall proceed pursuant to the terms of the ICWA and is hereby authorized to vacate, in whole or in part, any prior finding or order which is inconsistent with the ICWA requirements. If there is no confirmation that the children are or may be eligible for Indian tribal membership, the court may reinstate its orders and judgment.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F055096 LaMons v. Rivera et al.,

The judgment is affirmed. Ardaiz, P.J.

We concur: Vartabedian, J.; Kane, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F054337 Reynen & Bardis Communities, Inc. v. Contour Development, Inc.

The judgment is affirmed. Ardaiz, P.J.

We concur: Vartabedian, J.; Cornell, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F054036 People v. Pineda

The judgment is affirmed with modifications. Hill, J.

We concur: Gomes, Acting P.J.; Dawson, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

F055240 In re K.M.S., a Minor

Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the calendar date heretofore set is vacated and the case is submitted for decision.

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

F055112 In re J.B., a Minor

The judgment is affirmed.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F053962 People v. Vieira

We reverse appellant's count 4 conviction under section 11366. The matter is remanded to the trial court to strike the sentence on count 4 and to stay execution of sentence pursuant to Penal Code section 654 on count 1. The court is directed to order that the clerk of the superior court prepare and forward to the Department of Corrections and Rehabilitation an amended abstract of judgment. As so modified and in all other respects, the judgment is affirmed. Dawson, J.

We concur: Wiseman, Acting P.J.; Hill, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F052958 Shiralian v. Shiralian

The judgment is affirmed. Costs awarded to respondent. Cornell, J.

We concur: Vartabedian, Acting P.J.; Kane, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

IN THE
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F056134 In re Derrick Lee Billups on Habeas Corpus

Accordingly, the petition for a writ of habeas corpus, with respect to the request for greater medical care, is granted. The medical staff at Pleasant Valley State Prison is directed to comply with the "Corrective Action Plan" set out in the federal receiver's informal response with one modification. The number of days between events described in the timeline is to remain the same but the timeline is to begin 20 days from the date of filing of this order. For the first time in his reply, petitioner asks this court to order the removal of all "negative" entries in his medical file and to reinstate him in the disability placement mobility program. Petitioner's request to remove all "negative" references from his medical records is denied. His request to be returned to the disability placement mobility program is denied without prejudice to renew it in this court if he is not returned to the program after completion of the medical re-evaluation process ordered in this opinion. Because petitioner continues to experience daily pain, this order will be final 10 days after the filing of this opinion.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F055906 People v. Oudin

Appellant having filed an abandonment and/or request for dismissal of appeal, IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

F056017 M.W. v. Sup. Ct. Fresno; Dept. of Child. & Fam. Serv.

The petition for extraordinary writ is denied.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]